

REMARKS

A. BACKGROUND

The present Amendment is in response to the Office Action mailed August 3, 2009. Claims 1, 3, 5-7, 10-14, 16-18, and 20-23 were pending and rejected in view of cited art.¹ Claims 1, 3, 6, 12-13, 17, and 20-21 are amended and claim 7 is canceled. Claims 1, 3, 5-6, 10-14, 16-18, and 20-23 remain pending in view of the above amendments, with claims 1, 12, and 20 being independent.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, are consistent with the Examiner's understanding.

B. PRIOR ART REJECTIONS

I. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejected claims 1, 3, 5, 11-14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,063,710 (*Takamoto*) in view of U.S. Patent No. 6,511,489 (*Field*). Claims 6, 7, 10, 17, 18, and 20-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Takamoto* in view of U.S. Reissue Patent No. 22,857 (*Ogburn*).

The Office Action admits, and Applicant agrees, that *Takamoto* "fails to teach a suture cutting blade positioned on the housing," (Office Action, page 3). However, the Office Action asserts that *Field* "teaches a suturing device with a common cutting blade positioned on the housing for cutting a suture (col. 7, lines 4-23)," (*id.*). Applicant respectfully disagrees with the characterization of *Field*.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

From the portion of *Field* identified in the Office Action, the *Field* cutting bar is movable to (i) sever the suture with the cutting edge 250, (ii) "lift the trailing end of the severed suture wire out of cutting bar channel 232 and up over island 236 so that the loop may be released from the distal end of the suturing instrument" using the ejection ramp face 254, and (iii) "push the suture loop free from the distal end of suturing instrument 2" using the "ejection push face 258," (col. 7, ll. 14-22). The cutting bar is not stationary. If, *arguendo*, the teachings of *Takamoto* and *Field* were combined, the combination would not include a "stationary suture cutting blade positioned on the housing within the opening and beneath the blade guard, the stationary suture cutting blade having" a cutting edge, as recited in independent claims 1, 12, and 20, because there is not teaching or suggestion in *Takamoto* and *Field* of such a structure. Again, the cutting bar of *Field* is not stationary.

Turning to the combination of *Takamoto* with *Ogburn*, the Office Action asserts that "Ogburn discloses that it is old and well known in the art to use a stationary suture cutting blade on the housing of a medical suturing device for the purpose of severing the suture after it has been applied to the wound," (Office Action, pages 4 and 5). As recited in *Ogburn*, "[f]ixed to the side of the member or arm 11 is a suture cutter which has a stem 51 terminating in a transverse head 52 provided with recurved arms 53, knife edges 54 being formed at the concave edges of these arms" (Col. 4, ll. 3-7). As can be seen in Figs. 1, 2, 3, 11, 12, and 13 of *Ogburn*, the "recurved arms" are exposed and curve toward the arm 11. No mention is made in *Ogburn* of the knife edges or the suture cutter being "positioned on the housing within the opening and beneath the blade guard," as recited in independent claims 1, 12, and 20. Further, no mention is made in *Ogburn* of the "housing having a proximal end, a distal end," "an opening disposed toward the distal end, and a blade guard partially extending over the opening," as recited in independent claims 1, 12, and 20. Consequently, the combination of *Takamoto* with *Ogburn* fails to teach or suggest the invention claimed in independent claims 1, 12, and 20.

In view of the above, Applicant respectfully submits that *Takamoto*, *Field*, and *Ogburn* fail, whether alone or in combination, to disclose, teach, or suggest the inventions of independent claims 1, 12, and 20. Therefore, Applicant respectfully requests that the rejection of claims 1, 12, and 20 be withdrawn. As claims 3, 6, 10, 11, 13-14, 16-18, and 21-23 depend from claims 1, 12, and 20, these claims are also allowable for at least the same reasons as claims 1, 12, and 20. Therefore, Applicant respectfully requests the allowance of claims 3, 6, 10, 11, 13-14, 16-18, and 21-23.

C. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 4th day of January, 2010.

Respectfully submitted,

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